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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,927	06/05/2007	Naoya Wada	88877	3694
22342 7590 12/08/2009 FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
EXAMINER				
FRANCIS, FAYE				
ART UNIT		PAPER NUMBER		
3725				
MAIL DATE		DELIVERY MODE		
12/08/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/589,927

Applicant(s)

WADA ET AL.

Examiner

Faye Francis

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 31-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date 1/24/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of group I in the reply filed on 9/25/09 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spiral member in an inner wall of the shredder in claim 3 and the control device in claims 21 and 28 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Figure 22-24 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. **For example only**, the phrase "the discharge port is disposed so as to be offset in the shaft direction of the

rotational shafts with respect to the throw-in port so that the shreddable object is scraped up from the lower portion to the upper portion while being traversed from a throw-in port side to a discharge port side" in lines 1-5 from bottom of claim 1, render the claims indefinite because all of the particular features encompassed thereby cannot be determined. What structure is responsible for the functional language in this claim? Is it because of the specific position of the throw-in port and discharge port?

Claim 3 is indefinite because the phrase "a spiral traversing member is provided in an inner wall of the shredder main body" appears to be inaccurate given the teaching in the specification and the illustrations in the drawings [it appears that the spiral traversing member is attached to the shaft/cutting portions]. Note also claim 4 in similar regard.

Claim 15 is indefinite since all that the applicant considers to be encompassed by the phrase "a damper gate type" cannot be determined.

With respect to claim 18, the phrase "the discharge port that is offset with respect to the throw-in port in the shaft direction of the rotational shafts, is configured to be changeable to an arbitrary position between the offset position and the position below the throw-in port" is confusing. How can one discharge port can be changeable to an arbitrary position (how is it moving?).

Claim 27 recites the limitation "the discharge ports" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 10-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated as best understood by either McFarland (6,149,083) or Kim (5,381,730) or Eriksson (4,284,247).

The claims are interpreted as best understood by the examiner. The claims are interpreted as requiring a shredding machine comprising a plurality of rotational shafts provided in parallel so as to support cutting blades in the transverse direction inside a shredder main body, wherein the cutting blade is provided with a plurality of cutting portions protruding from the peripheral of the cutting blade, and the cutting blades are disposed in the shaft direction of the rotational shafts so that the cutting portions engage with each other, a throw-in port provided in an upper portion of the shredder main body and a discharge port provided in a lower portion of the shredder main body. Either McFarland or Kim or Eriksson is considered to clearly show a device having the structural elements of the claims that can be understood (see the Figs. respectively).

8. Claims 1, 10-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Enikolopow et al (4,607,797) or Mange et al (4,839,193)

The claims are interpreted as best understood by the examiner. The claims are interpreted as requiring a shredding machine comprising a plurality of rotational shafts

provided in parallel so as to support cutting blades in the transverse direction inside a shredder main body, wherein the cutting blade is provided with a plurality of cutting portions protruding from the peripheral of the cutting blade, and the cutting blades are disposed in the shaft direction of the rotational shafts so that the cutting portions engage with each other, a throw-in port provided in an upper portion of the shredder main body, a discharge port provided in a lower portion of the shredder main body and plurality of discharge ports. Either Enikolopow et al or Mange et al is considered to clearly show a device having the structural elements of the claims that can be understood (see the Figs. respectively).

9. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Lee (5,156,872).

The claims are interpreted as best understood by the examiner. The claims are interpreted as requiring a shredding machine comprising a plurality of rotational shafts provided in parallel so as to support cutting blades in the transverse direction inside a shredder main body, wherein the cutting blade is provided with a plurality of cutting portions protruding from the peripheral of the cutting blade, and the cutting blades are disposed in the shaft direction of the rotational shafts so that the cutting portions engage with each other, a throw-in port provided in an upper portion of the shredder main body, a discharge port provided in a lower portion of the shredder main body and perforations 4. Lee is considered to clearly show a device having the structural elements of the claims that can be understood (see the Figs.).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over either McFarland or Kim or Eriksson as applied to claims 1, 10-11 and 13 above and further in view of either Mochizuki (4,691,871) or Lindsey (2,671,646).

Either McFarland or Kim or Eriksson discloses most of the elements of these claims but for a scrape-up member.

Either Mochizuki or Lindsey teaches the concept of providing a shredder with a scrape-up member (30, 41 respectively). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide device of either McFarland or Kim or Eriksson with the scrape-up member as taught by either Mochizuki or Lindsey

in order to prevent the material from clogging the device. Any remaining limitations not disclosed in the reference would then have been obvious design choice, as they solve no stated problem and of no patentable merit.

13. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over either McFarland or Kim or Eriksson as applied to claims 1, 10-11 and 13 above and further in view of Benn (4,903,903).

Either McFarland or Kim or Eriksson discloses most of the elements of these claims but for a tilt device.

Benn is cited to show desirability, in the relevant art, to provide a crusher with a jack (14 and 15) in order to tilt the crusher. It would have been obvious to further provide the device of either McFarland or Kim or Eriksson with the tilt device as taught by Benn in order to adjust the height of the crusher. Any remaining limitations not disclosed in the reference would then have been obvious design choice, as they solve no stated problem and of no patentable merit.

14. Claims 12, 14 rejected under 35 U.S.C. 103(a) as being unpatentable over either McFarland or Kim or Eriksson.

The limitations of these claims would then have been obvious design choice, as they solve no stated problem and of no patentable merit.

15. Claims 15-19 and 20-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Enikolopow et al or Mange et al in view of Gueldenpfenning et al (5,683,044).

Either Enikolopow et al or Mange et al discloses most of the elements of these claims including plurality of discharge ports wherein at least one of them can be considered as a foreign object discharge port insofar as the applicant has claimed. However, neither Enikolopow et al nor Mange et al discloses a slidable closer at the outlet or a control device.

Gueldenpfenning et al teaches that it is conventional to have a slidable closer/door at the outlet of a crusher. It would have been obvious, in view of Gueldenpfenning et al to further provide the outlet of either Enikolopow et al or Mange et al device with a slidable closer/door in order to control the flow of material. Any remaining limitations not disclosed in the reference would then have been an obvious modification by one skilled in the art once the basic apparatus was known or an obvious design choice, as they solve no stated problem and of no patentable merit.

With respect the limitation in claims 28-30, these limitations would have been obvious modifications by one skilled in the art once the basic apparatus was known. For example the use of the control device to alter the drive mechanism is well known in the art and of no patentable merit.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Faye Francis/
Primary Examiner
Art Unit 3725

FF